



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

November 10, 2010

Kathy DeRosa

Redacted

RE: Advisory Letter
FPPC Case No. ~~09~~954; Kathy DeRosa
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Dear Mayor DeRosa:

The Fair Political Practices Commission (the "FPPC") enforces the provisions of the Political Reform Act (the "Act"),¹ found in Government Code Section 81000, et seq. This letter is the result of a complaint filed against you that alleged a possible violation of the Act's campaign reporting requirements regarding a candidate's receipt of contributions.

The complaint alleged that, by including your co-signature on a letter to business owners in Cathedral City from Southern California Edison, Southern California Edison made a contribution to you that went unreported on your campaign reports. The complainant also attached a page to the complaint with your biography, which led us initially to believe Southern California Edison had included this biography in their mailing.

After concluding our investigation, the facts, however, appear to be that your biography was not included in Southern California Edison's mailing to business owners. Rather, only a letter was sent, which you co-signed, as did other city mayors, because Cathedral City belongs to a Southern California Edison program known as the "Desert Cities Partnership." The letters from Southern California Edison alerted business owners to a program jointly partnered by the cities in the Desert Cities Partnership and Southern California Edison whereby qualifying businesses could receive free energy-efficient products with free installation.

The Act defines a contribution as "a payment ... unless it is clear from the surrounding circumstances that it is not made for political purposes." (GC § 82015, subd.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

(a.) Although, generally, payments behested² by a candidate are contributions unless "it is clear from the surrounding circumstances that the payment was made for purposes unrelated to his or her candidacy for elective office," the Act presumes that payments made "principally for legislative, governmental, or charitable purposes" are not contributions. (GC § 82015, subd. (b)(2)(B)(iii).) Because the communication informed business owners about a program jointly partnered with government agencies, the payment made by Southern California Edison to send the letters had a governmental purpose. However, payments of this type that are made at the behest of a candidate who is an elected officer, as you are, must be reported within 30 days following the date on which the payment or payments equal or exceed \$5,000 in the aggregate from the same source in the same calendar year in which they are made. The report must be filed by the elected officer with the elected officer's agency and is a public record. (GC § 82015, subd. (b)(2)(B)(iii).)

The FPPC publishes forms and manuals to facilitate compliance with the Act. If you need forms or a manual, or guidance regarding your obligations, please call the FPPC's Toll-Free Advice Line at 1-866-275-3772. Please also visit our website at www.fppc.gov.

If you have questions regarding this matter, please contact me at (916) 322-8241.

Sincerely,

Redacted

Adnanne Korchmaros
Political Reform Consultant
Enforcement Division

cc: Julianne Middleton

² "Made at the behest of" means that the payment was made with your cooperation, consultation, coordination. (Regulation 18225.7, subd. (a).)